

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

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CLERK US DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY DEPUTY

BAKARI L. JEFFERSON,
Plaintiff,

-vs-

Case No. A-12-CA-270-SS

GMAC MORTGAGE, LLC; MORTGAGE
ELECTRONIC REGISTRATION SYSTEMS,
INC.; and ALETHES, INC.,
Defendants.

ORDER

BE IT REMEMBERED on this day the Court reviewed the file in the above-styled cause, and specifically Defendant GMAC Mortgage, LLC's Motion to Dismiss [#34], to which Plaintiff Bakari L. Jefferson has not responded; and Defendants GMAC and Mortgage Electronic Registration Systems, Inc.'s Response to the Court's Show Cause Order [#36]. Having reviewed the documents, the governing law, and the file as a whole, the Court now enters the following opinion and orders GRANTING the motion to dismiss and closing this case.

This lawsuit challenging Defendants' authority to foreclose on the property once purchased by Jefferson was first removed to this Court on March 27, 2012. This Court previously granted in part a motion to dismiss, but was required to stay the bulk of Jefferson's claims because of the pending bankruptcy of GMAC's parent company in New York. *See* Order of Oct. 23, 2012 [#25]. GMAC has now filed a second motion to dismiss seeking dismissal of the remaining claims. On May 30, 2014, this Court entered a show cause order directing both parties to respond and show cause "why this case should be continued and what issues remain to be litigated" in light of the passage

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of the claim-filing deadline in the bankruptcy proceeding. GMAC and MERS responded and urge the Court to dismiss the case because there is nothing left to be litigated in light of the bankruptcy case. Jefferson, who is ostensibly represented by counsel, did not respond to the show cause order or the second motion to dismiss. Indeed, Jefferson has not filed anything in this case since October 12, 2012.

The Court therefore GRANTS the motion to dismiss as unopposed. *See* Local Rule CV-7(e)(2). The Court also DISMISSES WITH PREJUDICE all claims for the reasons set forth in Defendants' Response to the Court's show cause order, which Jefferson has also not opposed. *See id.* Specifically, Jefferson's claims all fail for the reasons suggested in this Court's prior order and confirmed by the Fifth Circuit's opinion in *Reinagel v. Deutsche Bank Nat'l Trust Co.*, 735 F.3d 220, 226–28 (5th Cir. 2013). Additionally, Jefferson was required by the terms of the bankruptcy court's final supplemental order to pursue his claims, if at all, in the bankruptcy court in New York. Jefferson did not file a claim in the bankruptcy court, and the time to do so has now passed. Accordingly, the confirmation order and plan entered by the bankruptcy have now ““permanently enjoined and precluded”” Jefferson from pursuing his claims. *See* Mot. Dism. [#34], ¶ 7 (quoting the confirmation order and plan). There are no issues left to litigate in this case.

IT IS ORDERED that Defendant GMAC Mortgage, LLC's Motion to Dismiss [#34] is GRANTED;

IT IS FINALLY ORDERED that all claims brought by Plaintiff Bakari L. Jefferson in the above-styled cause are DISMISSED WITH PREJUDICE.

SIGNED this the 20th day of June 2014.


 SAM SPARKS
 UNITED STATES DISTRICT JUDGE